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August 18, 2009

JOHN H. BROADLEY



Honorable Anne K. Quinlan
Acting Secretary
Surface Transportation Board
395 E Street SW
Washington, D.C. 20423

Re: Finance Docket 35283, The Indiana Rail Road Company -- Trackage Rights Exemption -- CSX Transportation, Inc.

Dear Ms. Quinlan:

Enclosed for filing in the captioned matter are the following:

1. An original and ten copies of the Notice of Exemption in this proceeding,
2. Twenty extra copies of the map showing the location of the trackage rights,
3. A CD containing a copy of the Notice of Exemption in both Word and pdf format,
4. A check in the amount of \$1200.00 representing the filing fee, and
5. An extra copy of the Notice of Exemption which I ask you to date stamp and return with our messenger.

Should you have any questions concerning this matter, please do not hesitate to call me at the above number.

Yours very truly,

John Broadley

ENTERED
Office of Proceedings

AUG 18 2009

Part of
Public Record

Enclosures

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FINANCE DOCKET NO. 35283

**THE INDIANA RAIL ROAD COMPANY
-- TRACKAGE RIGHTS EXEMPTION --
CSX TRANSPORTATION, INC.**



**ENTERED
Office of Proceedings**

AUG 18 2009

**Part of
Public Record**

VERIFIED NOTICE OF EXEMPTION

FILED

AUG 18 2009

**SURFACE
TRANSPORTATION BOARD**

FEE RECEIVED

AUG 18 2009

**SURFACE
TRANSPORTATION BOARD**

THE INDIANA RAIL ROAD COMPANY

**John Bradley
John H. Bradley & Associates, P.C.
1054 31st Street NW, Suite 200
Washington, D.C. 20007
Tel. 202-333-6025
Fax 301-942-0676
E-mail jbroadley@alum.mit.edu**

Attorney for The Indiana Rail Road Company

Dated: August 18, 2009

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FINANCE DOCKET NO. 35283

**THE INDIANA RAIL ROAD COMPANY
-- TRackage RIGHTS EXEMPTION --
CSX TRANSPORTATION, INC.**



VERIFIED NOTICE OF EXEMPTION

The Indiana Rail Road Company (“INRD”) submits this Verified Notice of Exemption pursuant to 49 C.F.R. § 1180.2(d)(7) for exemption of a Supplemental Trackage Rights Agreement (“Supplemental Agreement”) between INRD and CSX Transportation, Inc. (“CSXT”). The Supplemental Agreement revises and supplements a trackage rights agreement entered into between INRD and Consolidated Rail Corporation (“Conrail”) on August 22, 1996 (the “1996 Agreement.”)

In the 1996 Agreement, Conrail granted INRD overhead trackage rights on the Indianapolis Belt between Milepost 5.3 (where the INRD line intersects the Belt) and Milepost 13.5 where the Belt connected with Norfolk Southern (now the Hoosier Heritage Railroad). The purpose of the Supplemental Agreement is (i) to grant INRD additional trackage rights which will permit INRD to deliver and retrieve carload haulage traffic to and from Louisville & Indiana

Railroad Co. (“LIRC”) at CSXT’s Avon Yard,¹ and (ii) to grant INRD trackage rights which will permit it to deliver and retrieve unit train haulage traffic directly to and from LIRC. In addition, the Supplemental Agreement confirms INRD’s rights to serve customers in State Street Yard where it operates a plastics transloading facility on track leased from CSXT, and revises the commercial terms of the 1996 Agreement.

Under 49 C.F.R. § 1180.2(d)(7), the acquisition of trackage rights by a rail carrier over lines owned or operated by any other rail carrier or carriers is exempt if the rights are (i) based on written agreements and (ii) not filed or sought in responsive applications in rail consolidation proceedings. The trackage rights covered by this notice (i) are covered by a written agreement, a draft of which is attached as Exhibit No. 2, and (ii) are not being filed or sought in responsive applications in a rail consolidation proceeding. As such, the §1180.2(d)(7) exemption is applicable.

In accordance with the requirements of 49 C.F.R. §1180.4(g), INRD submits the following information:

§ 1180.6(a)(1) Description of Proposed Transaction

1180.6(a)(1)(i) A brief summary of the proposed transaction, the name of applicants, their business address, telephone number, and the name of the counsel to whom questions regarding the transaction can be addressed.

The transaction covered by this notice is the restatement and confirmation of trackage rights granted to INRD by the 1996 Agreement, and the grant of additional limited non-exclusive trackage rights to INRD over CSXT’s Indianapolis Belt and certain other CSXT lines in Indianapolis, IN. Specifically, Section 1 of the Supplemental Agreement:

¹ INRD already interchanges traffic with CSXT at Avon Yard pursuant to an interchange agreement between the parties.

A. Confirms and restates the trackage rights previously granted by the 1996 Agreement over CSXT's Indianapolis Belt Subdivision between the connection of INRD with CSXT at CSXT MP QIB 5.3 and the Hoosier Heritage Railroad in the vicinity of CSXT MP QIB 13.5, a distance of approximately 8.2 miles.

B. Grants overhead trackage rights over CSXT's Hamilton Connection between CSXT MP QIB 9.0, approximately, and the point of INRD's State Street Yard leased property in the vicinity of CSXT's Indianapolis Subdivision MP BD 122.0, a distance of approximately 0.5 miles.

C. Grants overhead trackage rights over CSXT's Hamilton and Prospect Wye Tracks in the vicinity of CSXT MP QIB 9.0 for the purpose of entry into and exit from CSXT's Hawthorne Yard.

D. Grants overhead trackage rights over CSXT's Indianapolis Subdivision between Hamilton Connection at CSXT MP BD 122.0 approximately, and CP IU at CSXT MP BD 126.5, a distance of approximately 4.5 miles.

E. Grants overhead trackage rights over CSXT's Indianapolis Terminal Subdivision between CP IU at CSXT MP QI 283.7 and CP AN at the west end of CSXT's Avon Yard at CSXT MP QS 12.5, a distance of approximately 12.7 miles.

F. Grants overhead trackage rights over CSXT's Louisville Secondary Subdivision between CSXT MP QSL 4.0 at the connection with LIRC and CSXT MP QSL 0.0, a distance of 4 miles, including use of wye tracks in the northeast and southeast quadrants at CP Dale, and wye tracks in the southeast and southwest quadrants at CP IU.

G. Grants overhead trackage rights over CSXT's Crawfordsville Branch between CP IJ at CSXT MP QSC 0.7 and the connection to the Indianapolis Terminal Subdivision at CP South Hunt at CSXT MP QSC 8.6, a distance of approximately 7.9 miles.

H. Grants overhead trackage rights over CSXT's Shelbyville Secondary Subdivision between the connection with the Indianapolis Belt Subdivision at CSXT MP QSS 106.9 and CP IU at CSXT MP QSS 109.3, a distance of approximately 2.4 miles.

INRD's use of the foregoing trackage rights is limited as follows:

A. The trackage rights described in "A" above are for the purposes set forth in the 1996 Agreement, being to interchange with Hoosier Heritage Railroad and with CSXT, and can be used in conjunction with the trackage rights described in "D" above to deliver and retrieve unit train haulage traffic with LIRC.

B. The trackage rights described in "B" above are to confirm INRD's right to serve customers at its leased tracks in State Street Yard.

C. The trackage rights described in "C" above are to confirm INRD's right to enter into CSXT's Hawthorne Yard to interchange with Norfolk Southern now that the interchange between CSXT and INRD has been moved to CSXT's Avon Yard.

D, E, F, G & H. The trackage rights described in "D" through "H" above are for the purpose of permitting INRD to deliver and retrieve carload haulage traffic to and from LIRC at CSXT's Avon Yard.²

D. The trackage rights described in "D" above will also permit INRD to deliver and retrieve unit train haulage traffic directly to and from LIRC when used with the trackage rights described in "A" above.

The name and business address of the applicant is:

The Indiana Rail Road Company³
101 West Ohio Street, Suite 1600
Indianapolis, IN 46204
Tel. 317-262-5140

Questions regarding this transaction are to be addressed to counsel named below:

John Broadley
John H. Broadley & Associates, P.C.
1054 31st Street NW, Suite 200
Washington, D.C. 20007
Tel. 202-333-6025
Fax 301-942-0676
E-mail jbroadley@alum.mit.edu

² The trackage rights granted will permit several routings for INRD's traffic moving to and from Avon Yard for delivery or retrieval of haulage traffic with LIRC. These redundant routings will provide CSXT's dispatchers with the greatest flexibility in routing INRD traffic to and from Avon Yard through the congested Indianapolis Terminal area.

³ INRD is wholly owned by Midland United Corporation which in turn is 85% owned by CSX Transportation, Inc. and 15% by Thomas G. Hoback, president of INRD and of Midland United Corporation. CSXT's acquisition of control of INRD was approved by the Board in *CSX Corporation et al. -- Control -- The Indiana Rail Road Company*, STB Finance Docket No. 32892, Nov. 7, 1996.

1180.6(a)(1)(ii) The proposed time schedule for consummation of the proposed transaction.

The Supplemental Agreement will be consummated on the later of September 18, 2009 or the date that is 30 days from the date the Board receives this filing.

1180.6(a)(1)(iii) The purpose sought to be accomplished by the proposed transaction, e.g. operating economies, eliminating excess facilities, improving service, or improving the financial viability of the applicants.

The purposes of the trackage rights are as follows.

First, the trackage rights will permit INRD to deliver and retrieve carload haulage traffic to and from LIRC at CSXT's Avon Yard.

Second, the trackage rights will permit INRD to deliver and retrieve unit train haulage traffic directly to and from LIRC.

The Supplemental Agreement will also confirm INRD's right to serve customers at State Street Yard and to move into CSXT's Hawthorne Yard to interchange with Norfolk Southern now that INRD's interchange with CSXT has been moved to CSXT's Avon Yard.

The trackage rights over CSXT's lines and haulage arrangements being negotiated with LIRC will enhance the efficiency of INRD's service to Louisville, KY.

§ 1180.6(a)(5) States in which the Applicant Has Property

1180.6(a)(5) A list of the States in which any part of the property of each applicant carrier is situated.

INRD has property in the states of Illinois, Indiana and Kentucky. The involved trackage rights are located in the state of Indiana.

§ 1180.6(a)(6) Map (Exhibit 1)

1180.6(s)(6) Submit a general or key map indicating clearly, in separate colors or otherwise, the line(s) of the applicant carriers in their true relations to each other, short line connections, other rail lines in the territory, and the principal geographic points in the region

traversed. If a geographically limited transaction is proposed, a map detailing the transaction should also be included. In addition to the map accompanying each application, 20 unbound copies of the map shall be filed with the Board.

A map is provided as Exhibit No. 1. Twenty unbound copies of the map accompany this filing with the Board.

§ 1180.6(a)(7)(ii) Agreement (Exhibit 2)

1180.6(a)(7)(ii) Submit a copy of any contract or other written instrument entered into, or proposed to be entered into, pertaining to the proposed transaction. In addition, parties to exempt trackage rights agreements and renewal of agreements described at § 1180.2(d)(7) must submit one copy of the executed agreement or renewal agreement with the notice of exemption, or within 10 days of the date that the agreement is executed, whichever is later.

A copy of the draft Supplemental Agreement showing the principal terms proposed is attached as Exhibit No. 2. INRD will submit a copy of the executed Supplemental Agreement within ten days of the date of execution. Because the Supplemental Agreement is supplemental to the 1996 Agreement, a copy of that agreement is also attached.

§ 1180.4(g)(1)(i) Labor Protection

1180.4(g)(1)(i) The notice shall contain the information required in . . . and indicate the level of labor protection to be imposed.

INRD is agreeable to the labor protection conditions generally imposed in trackage rights proceedings as found in Norfolk and Western Ry. Co. - Trackage Rights - BN, 354 I.C.C. 605 (1978), as modified by Mendocino Coast R. Inc. -- Lease and Operate, 360 I.C.C. 653 (1980).

§ 1180.4(g)(2)(i) Caption Summary (Exhibit 3)

1180.4(g)(2)(i) To qualify for an exemption under § 1180.2(d)(7) (acquisition or renewal of trackage rights agreements), in addition to the notice, the railroad must file a caption summary suitable for publication in the Federal Register. The caption summary must be in the following form:

A caption summary of this transaction suitable for publication in the *Federal Register* is attached as Exhibit No. 3.

§ 1180.4(g)(3) Environmental Documentation

Environmental documentation is not required for this transaction. See 49 C.F.R. § 1105.6(c)(4) (no environmental documentation required for common use of rail terminals and trackage rights).

§ 1180.4(g)(4) Interchange Restrictions

Section 2 of the Supplemental Agreement restates Section 3 of the 1996 Agreement and imposes restrictions on the use that can be made of the trackage rights. Currently the only interchange points are with Hoosier Heritage Railroad at CSXT MP QIB 13.5, with LIRC at CSXT MP QSL 4 and with Norfolk Southern at Hawthorne Yard. The trackage rights are restricted to delivery and retrieval of haulage trains with LIRC, but permit interchange with Norfolk Southern at Hawthorne Yard and with Hoosier Heritage Railroad. The complete trackage rights agreement is attached as Exhibit No. 2.

Respectfully submitted,

THE INDIANA RAIL ROAD COMPANY

By: John Broadley
One of its attorneys

John Broadley
John H. Broadley & Associates, P.C.
1054 31st Street NW, Suite 200
Washington, D.C. 20007
Tel. 202-333-6025
Fax 301-942-0676
E-mail jbroadley@alum.mit.edu

Dated: August 18, 2009

VERIFICATION
(28 U.S.C. 1746)
(49 CFR 1104.5)

I, Thomas G. Hoback, verify under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this Verified Notice of Exemption.

Executed on August 14, 2009

Handwritten signature of Thomas G. Hoback in cursive script.

Thomas G. Hoback
President and Chief Executive Officer
The Indiana Rail Road Company

CERTIFICATE OF SERVICE

I hereby certify that on this 18th day of August 2009 I served a copy of the foregoing Verified Notice of Exemption by causing copies thereof to be deposited in the United States mail, postage prepaid, addressed to the following:

Steven C. Armbrust, Esq.
Counsel
CSX Transportation, Inc.
500 Water Street
Jacksonville, FL 32202
(904) 359-1229

Indiana Department of Transportation
Rail Section
100 North Senate Avenue
Room N955
Indianapolis, IN 46204
Attention: Michael Riley, Railroad Section Manager

Secretary of Transportation
Office of Chief Counsel
Federal Railroad Administration
Docket Clerk
1200 New Jersey Avenue SE
Washington, D.C. 20590

U.S. Department of Justice
Attorney General
Room B-103
950 Pennsylvania Avenue NW
Washington D.C. 20530-0001

Federal Trade Commission
Premerger Notification Office
600 Pennsylvania Avenue NW
Room 303
Washington, D.C. 20580

Governor Mitch Daniels
Office of the Governor
200 West Washington Street
Room 206
Indianapolis, IN 46204



Dated: August 18, 2009

EXHIBIT No. 1

MAP

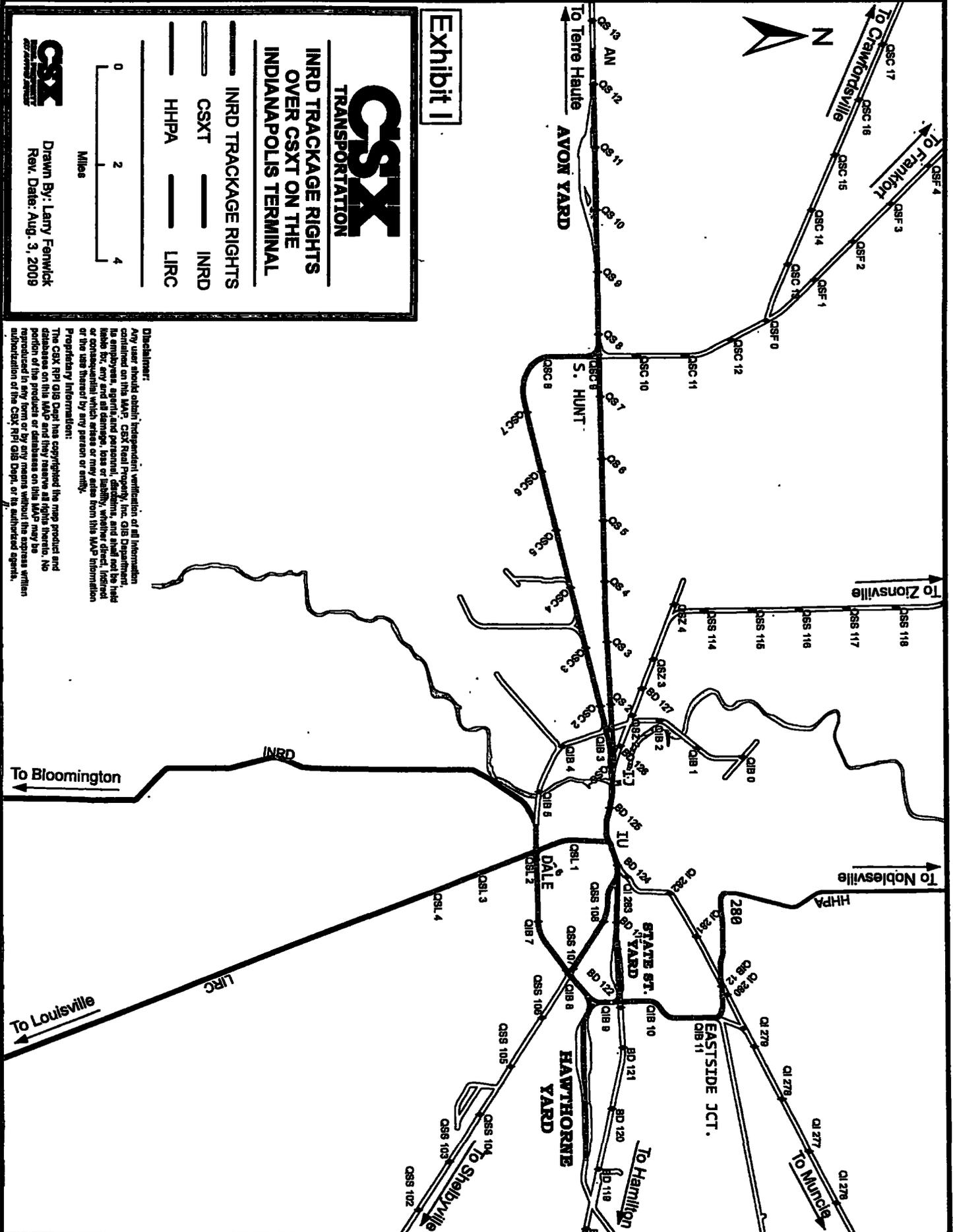


Exhibit I

CSX TRANSPORTATION INRD TRACKAGE RIGHTS OVER CSXT ON THE INDIANAPOLIS TERMINAL

- INRD TRACKAGE RIGHTS
- CSXT
- INRD
- HHPA
- LIRC



Drawn By: Larry Fenwick
Rev. Date: Aug. 3, 2009

Disclaimer:

Any user should obtain independent verification of all information contained on this Map. CSX Real Property, Inc. GIS Department, its employees, agents, and personnel, consultants, and staff are not liable for, any and all damages, loss or liability, whether direct, indirect or consequential which arises or may arise from this Map's information or its use thereof by any person or entity.

Proprietary Information:

The CSX RPI GIS Dept has copyrighted the map product and databases on this MAP and they reserve all rights therein. No portion of the products or databases on this MAP may be reproduced in any form or by any means without the express written authorization of the CSX RPI GIS Dept, or its authorized agents.

EXHIBIT No. 2

**Supplemental Agreement
1996 Agreement**

SUPPLEMENTAL AGREEMENT

THIS SUPPLEMENTAL AGREEMENT, entered into as of this 1st day of September, 2009 between CSX TRANSPORTATION, INC., hereinafter referred to as "CSXT" or "Owner", and THE INDIANA RAIL ROAD COMPANY, hereinafter referred to as "INRD" or "User". CSXT/Owner and INRD/User are sometimes referred to jointly herein as "the Parties".

WITNESSETH:

WHEREAS, By agreement dated August 22, 1996, INRD enjoys overhead trackage rights over CSXT's Indianapolis Belt Subdivision between CSXT Milepost (MP) QIB 5.3 near Raymond St., and CSXT MP QIB 13.5 at the connection of the Hoosier Heritage Railroad and for connection to CSXT at State Street Yard ("1996 Agreement");

WHEREAS, the Parties now desire that INRD be granted additional authority to operate between CSXT MP QIB 5.3 near Raymond Street, and CSXT's Avon Yard west of Indianapolis at Indianapolis Terminal Subdivision MP QS 9.4 at CP MY for purposes of delivering and retrieving haulage traffic between INRD and Louisville & Indiana Railroad Co. (LIRC);

WHEREAS, the Parties now desire that INRD be granted additional authority to operate between CSXT MP QIB 5.3 near Raymond Street and CSXT's connection with LIRC at CSXT MP QSL 4 on CSXT's Louisville Secondary Subdivision for the purpose of delivering and retrieving unit train haulage traffic with LIRC;

WHEREAS, the Parties desire to confirm INRD's right to operate into CSXT's Hawthorne Yard for the purposes of interchanging with Norfolk Southern Railway ("NSR");

WHEREAS, the Parties desire to confirm INRD's right to operate into CSXT's State Street Yard for the purpose of serving INRD's customers located on INRD leased trackage in that yard; and

WHEREAS, the Parties desire to update the 1996 Agreement to permit the aforesaid changes in INRD's operations.

NOW, THEREFORE, The Parties , intending to be legally bound, agree as follows:

1. SECTION 1. GRANT OF TRackage RIGHTS in the 1996 Agreement is re-written in its entirety to read as follows:

Subject to the terms and conditions herein provided, Owner hereby grants to User the right to operate its trains, locomotives, cars and equipment with its own crews (hereinafter referred to as the "Trackage Rights") over the following segments of

Owner's railroad shown on the plan attached hereto, made a part hereof and marked "Exhibit I" (hereinafter referred to as the Subject Trackage"):

- A. The trackage rights previously granted by the 1996 Agreement, being on CSXT's Indianapolis Belt Subdivision between the connection of INRD with CSXT at CSXT MP QIB 5.3, and the Hoosier Heritage Railroad in the vicinity of CSXT MP QIB 13.5, a distance of approximately 8.2 miles
 - B. CSXT's Hamilton Connection between CSXT MP QIB 9.0 approximately, and the point of INRD's State Street Yard leased property in the vicinity of CSXT's Indianapolis Subdivision MP BD 122.0, a distance of approximately 0.5 mile.
 - C. CSXT's Hamilton and Prospect Wye Tracks in the vicinity of CSXT MP QIB 9.0 for purposes of entry into and exit from CSXT's Hawthorne Yard.
 - D. CSXT's Indianapolis Subdivision between Hamilton Connection at CSXT MP BD 122.0 approximately, and CP IU at CSXT MP QI 283.7, a distance of approximately 4.5 miles.
 - E. CSXT's Indianapolis Terminal Subdivision between CP IU at CSXT MP QI 283.7 and CP AN at the west end of CSXT's Avon Yard at CSXT MP QS 12.5, a distance of approximately 12.7 miles.
 - F. CSXT's Louisville Secondary Subdivision between CSXT MP QSL 4.0 at connection with LIRC and CSXT MP QSL 0.0, a distance of 4 miles, including use of wye tracks in NE and SE quadrants at CP Dale, and wye tracks in SE and SW quadrants at CP IU.
 - G. CSXT's Indianapolis Terminal Crawfordsville Branch between CP IJ at CSXT MP QSC 0.7 and connection to Indianapolis Terminal Subdivision at CP South Hunt at CSXT MP QSC 8.6, a distance of 7.9 miles.
 - H. CSXT's Shelbyville Secondary Subdivision between connection with Indianapolis Belt Subdivision at CSXT MP QSS 106.9 and CP IU at CSXT MP QSS 109.3, a distance of 2.4 miles.
2. SECTION 3. RESTRICTION ON USE, in the 1996 Agreement is re-written in its entirety as follows:
- A. The Trackage Rights herein granted are granted for the purpose of allowing INRD to operate in overhead service between its own lines, and:
 - a. The Hoosier Heritage Railway to the same extent and for the same purpose INRD was granted rights under the original 1996 Agreement,

- b. CSXT's Hawthorne Yard for purposes of conducting interchange between INRD and NSR at Hawthorne Yard,
 - c. INRD's State Street Yard for purpose of serving INRD customers on leased tracks located therein,
 - d. CSXT's Avon Yard for purposes of delivering and retrieving carload haulage traffic to and from LIRC at Avon Yard
 - e. CSXT's Louisville Secondary Subdivision between CP Dale and MP QSL 4.0 for purposes of delivering and retrieving unit train haulage traffic to and from LIRC.
 - f. INRD shall not perform any local freight service whatever at any point located on the Subject Trackage.
- B. The intent of this Supplemental Agreement is to maximize flexibility of operation by enabling INRD to operate to and from Hawthorne Yard, Avon Yard, State Street Yard and the Louisville Secondary connection with LIRC by such route or combination of routes as will afford the most expeditious movement at the time of movement. The route selected in each case shall be at the sole discretion of CSXT's dispatcher controlling the movement, subject to the qualification of INRD's crews handling the movement. From time to time during the term hereof, economy and efficiency of operation may dictate the use of other than the aforesaid routes by INRD, and such alternate routes shall be at the discretion of CSXT's dispatcher, subject to INRD crew qualification, and when used, shall be considered part of the Subject Trackage.
- C. INRD shall have a right to carry in its trains subject hereof, traffic it interchanges with CSXT at Avon Yard. Such traffic however, shall be excluded from the provisions of this Supplemental Agreement, and shall be subject to provisions of Interchange Agreement of October 28, 2003 between the parties.
3. SECTION 4. COMPENSATION, sub-section (a) of the 1996 Agreement is re-written in its entirety as follows:
- (a) The factor to be used in calculating payments to be made by User for the Trackage Rights movements covered by this Agreement shall be as follows:
 - 1. \$ 3.00 per car in either direction to and from the Hoosier Heritage Railway as permitted by the 1996 Agreement,

2. \$ 1.40 per car in either direction to/from Hawthorne Yard,
 3. \$ 1.40 per car in either direction to/from State Street Yard,
 4. \$ 4.25 per car in either direction to/from Avon Yard, and
 5. \$ 1.00 per car in either direction to/from the Louisville Secondary Subdivision between Dale and MP QS 4.0,
- the foregoing hereinafter referred to as the "Current Charge".

4. SECTION 5. REVISION OF CURRENT CHARGE, sub-article (a) of the 1996 Agreement is modified to specify that the Current Charge as specified in Section 4 of this Supplemental Agreement shall be effective concurrent with the effective date of this Supplemental Agreement, and shall be revised effective July 1 of each year, beginning July 1, 2010.

5. SECTION 20. NOTICE, sub-sections (a) and (b) of the 1996 Agreement are modified as follows:

(a) If to Owner:
c/o Director Passenger & Joint Facility Agreements
CSX Transportation, Inc.
500 Water St., J315
Jacksonville, FL 32202

(b) If to User:
c/o _____
The Indiana Rail Road Company

6. Should this Supplemental Agreement require the prior approval of the Surface Transportation Board (STB), INRD at its own cost and expense shall initiate and thereafter diligently pursue an appropriate application, petition or notice to secure such approval. CSXT shall assist and support efforts of INRD to secure any necessary STB approval of this Supplemental Agreement.

7. In all other respects, the 1996 Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto execute this Supplemental Agreement, in duplicate, as of the day and year first above written.

WITNESS

CSX TRANSPORTATION, INC.

D R A F T

By _____
Its _____

WITNESS

THE INDIANA RAIL ROAD COMPANY

D R A F T

By _____
Its _____

AGREEMENT

THIS AGREEMENT, entered into as of this _____ day of _____, 1996, by and between **CONSOLIDATED RAIL CORPORATION** (hereinafter referred to as "Owner" or "Conrail") and **THE INDIANA RAIL ROAD COMPANY** (hereinafter referred to as "User" or "INRD").

WHEREAS, the Chicago, St. Louis and Pittsburgh Railroad Company, the Jefferson, Madison and Indianapolis Rail Road Company, the Cincinnati, Indianapolis, St. Louis and Chicago Railway Company, the Terre Haute and Indianapolis Rail Road Company, and the Cleveland, Columbus, Cincinnati and Indianapolis Railway Company (the "Proprietary Companies"), created what is known as the Indianapolis Union Railway Company (the "IU"); and

WHEREAS, the IU leased the Belt Railroad and Stock Yard Company ("Belt"), which is now Conrail's Indianapolis Belt Running Track ("the Belt Tracks"), pursuant to a lease dated October 17, 1882; and

WHEREAS, the Proprietary Companies entered into an agreement dated September 20, 1883 (the "1883 Agreement") that provided for construction and operation of common rail facilities in Indianapolis, IN and the joint operation of such facilities; and

WHEREAS, the Belt, as lessee, is operated under the terms of the 1883 Agreement; and

WHEREAS, seven (7) railroads were admitted as tenant companies to the 1883 Agreement and were permitted to use the IU and Belt under terms of the 1883 Agreement; and

WHEREAS, through various mergers the IU became a wholly owned subsidiary of the Penn Central Railroad; and

WHEREAS, on April 1, 1976 the assets of the IU, including the Belt leasehold of 1882 were conveyed to Conrail by the United States Railway Administration; and

WHEREAS, through various mergers and acquisitions, Conrail is successor to all of the Proprietary Companies, and CSX Transportation, Inc. ("CSXT") and INRD are successors to tenant railroads and therefore only three (3) railroads are now party to the 1883 Agreement; and

WHEREAS, the three (3) remaining parties to the 1883 Agreement wish to simplify the accounting and administration set forth in the 1883 Agreement; and

WHEREAS, many terms and conditions of the 1883 Agreement no longer apply or have been fulfilled; and

WHEREAS, the three (3) remaining parties to the 1883 Agreement wish to terminate the 1883 Agreement and enter into new agreements reflecting current terms; and

WHEREAS, Conrail and INRD have entered into a Switching Agreement of even date herewith which provides for Conrail to switch INRD traffic to Belt industries (the "Belt Switching Agreement"); and

WHEREAS, by separate instrument the three parties to the 1883 Agreement have terminated the 1883 Agreement by mutual consent.

NOW THEREFORE, the parties hereto, intending to be legally bound, agree as follows:

SECTION 1. GRANT OF TRACKAGE RIGHTS

Subject to the terms and conditions herein provided, Owner hereby grants to User the right to operate its trains, locomotives, cars and equipment with its own crews (hereinafter referred to as the "Trackage Rights") over the following segment of Owner's railroad shown on the plan attached hereto, made a part hereof and marked "Exhibit I" (hereinafter referred to as the "Subject Trackage"):

Conrail's Indianapolis Belt Running Track (the Belt Tracks) between INRD's connection near Raymond Street, Indianapolis, IN (Milepost 5.3±) and the end of the Belt at the connection with the former Norfolk and Western Railway Company at Milepost 13.5±, a total distance of approximately 8.2 miles.

SECTION 2. USE OF SUBJECT TRACKAGE

(a) User's use of the Subject Trackage shall be in common with Owner and any other user of the Subject Trackage, and Owner's right to use the Subject Trackage shall not be diminished by this Agreement. Owner shall retain the right to grant to other persons rights of any nature in the Subject Trackage.

(b) User shall not use any part of the Subject Trackage for the purpose of switching, storage of cars, or the making or breaking up of trains, except that nothing contained herein shall, upon prior approval of Owner, preclude the emergency use by User of such auxiliary tracks as may be designated by Owner for such purpose.

(c) Owner shall have exclusive control of the management and operation of the Subject Trackage.

(d) User shall have the right to operate in either direction over the Subject Trackage.

(e) User may not permit any third party to use the Subject Trackage; provided however, User may allow CSXT to act as its agent under this Agreement in accordance with Section 22 hereof.

SECTION 3. RESTRICTIONS OF USE

(a) The Trackage Rights herein granted are granted for the sole purpose of User using same for bridge freight traffic only between:

- (i) Owner's connection with User at Raymond Street, Indianapolis, IN (Milepost 5.3±) and the connection between Owner and the former Norfolk and Western Railway Company at Milepost 13.5±, a distance of approximately 8.2 miles.
- (ii) Owner's connection with User at Raymond Street (Milepost 5.3±) and the connection between Owner and CSXT near State Street (Milepost 8.9±), all in the City of Indianapolis, IN, a distance of approximately 3.6 miles.

(b) User shall not perform any local freight service whatever at any point located on the Subject Trackage.

SECTION 4. COMPENSATION

(a) The factor to be used in calculating payments to be made by User for the Trackage Rights covered by this Agreement shall be Thirty-four Dollars and eighty-five cents (\$34.85) per car in either direction for Trackage Rights as described in Section 3(a)(i) hereof, and Fifteen-Dollars and thirty cents (\$15.30) per car in either direction for Trackage Rights as described in Section 3(a)(ii) hereof (hereinafter referred to as the "Current Charge").

(b) User will pay Owner a sum computed by multiplying: (i) the applicable Current Charge, as may be revised in accordance with Section 5 by, (ii) the number of cars (loaded or empty), locomotive and caboose units moved by User with its own crews and power over the Subject Trackage. For the purpose of this Agreement, each locomotive unit, each caboose and each platform of an articulated car shall be counted as one car.

(c) At the end of each month, User will furnish to Owner a statement of the number of cars, locomotives, cabooses, and total car miles operated by User over the Subject Trackage during the month, together with payment to Owner, as computed in accordance with the provisions of this Section 4, for User's use of the Subject Trackage, to the following addresses:

Remittance of Statements to Owner at:

Consolidated Rail Corporation
Attention Director Joint Facility Administration
P. O. Box 41414
Philadelphia, PA 19101-1414

Remittance of Payments to Owner at:

Consolidated Rail Corporation
Attention: Director Joint Facility Administration
P. O. Box 8500-S2350
Philadelphia, PA 19178

(d) In addition to the Current Charge in (a) above, User shall pay a fixed annual charge of \$11,000 per year (the "Annual Charge") to Owner commencing August 1, 1996, and by July 1 of each year thereafter, with remittance to Owner at the address identified in Section 4(c) hereof.

(e) In the event User does not file with the Surface Transportation Board ("STB") as required by Section 23 of this Agreement, User will pay an additional annual charge of \$11,000 as of January 1, 1997, and annually thereafter, until provisions of Section 23 have been satisfied.

SECTION 5. REVISION OF CURRENT CHARGE

(a) The Current Charge and Annual Charge set forth in Section 4 above shall be revised effective July 1 of each year, beginning July 1, 1997, to compensate for the increase or decrease in the cost of labor and material, excluding fuel, to reflect the change in the "Material

prices, wage rates and supplements combined (excluding fuel)" index as contained in Table A, Annual Indexes of Chargeout Prices and Wage Rates (1977=100) - East, included in "AAR Railroad Cost Indexes" published by the Association of American Railroads. The Current Charge and Annual Charge shall be revised by calculating the percentage of increase, or decrease, in the index of the year to be revised as related to the index of the prior calendar year and then applying that percentage to the Current Charge and Annual Charge.

(b) By way of example, assuming "A" to be the "Material prices, wage rates and supplements combined (excluding fuel)" final index figure for the year prior to the year to be revised; "B" to be the "Material prices, wage rates and supplements combined (excluding fuel)" final index figure for the calendar year to be revised; "C" to be the Current Charge or Annual Charge; "D" to be the percentage of increase or decrease, the new revised Current Charge or Annual Charge would be determined by the following formula:

$$(1) \frac{B - A}{A} = D$$

(2) $(C \times D) + C =$ new revised Current Charge, or Annual Charge, effective July 1 of the year being escalated.

(c) If the Association of American Railroads or any successor organization discontinues publication of the Annual Indexes of Chargeout Prices and Wage Rates, an appropriate substitute for determining the percentage of increase or decrease shall be negotiated by the parties hereto. In the absence of agreement, the matter will be referred to the Surface Transportation Board for determination. In the event said Board is without jurisdiction to make such a determination, the parties shall submit the matter to binding arbitration in accordance with Section 16 of this Agreement.

(d) At the option of either party hereto the compensation provided for in Sections 4 and 5 of this Agreement shall be open to renegotiation every five (5) years from the Commencement Date, as hereinafter defined. In the event the parties fail to reach agreement upon such renegotiation, such failure shall not constitute a breach of this Agreement and the parties shall continue to be bound by the terms of compensation provided in said Sections for the remainder of the term of this Agreement.

SECTION 6. PAYMENT OF BILLS

(a) Payments to be made by User for the Trackage Rights covered by this Agreement shall be made in accordance with Section 4.

(b) All payments called for under this Agreement, other than those pursuant to Section 4, shall be made by User within thirty (30) days after receipt of bills therefor. No payments shall be withheld because of any dispute as to the correctness of items in the bills rendered, and any discrepancies reconciled between the parties hereto shall be adjusted in the accounts of a subsequent month.

(c) Bills rendered pursuant to the provisions of this Agreement, other than those set forth in Section 4 hereof, shall include direct labor and material costs, together with the surcharges, overhead percentages, and equipment rentals in effect at the time any work is performed by Owner.

SECTION 7. MAINTENANCE OF SUBJECT TRACKAGE

(a) Owner shall maintain, repair, and renew the Subject Trackage at its own expense and with its own supervision and labor. Owner shall keep and maintain the Subject Trackage to a standard equal to Federal Railroad Administration ("FRA") Class 1, but Owner does not guarantee the condition of the Subject Trackage or that operations thereover will not be interrupted. Furthermore, except as may be otherwise provided in Section 13 hereof, User shall not by reason of failure or neglect on the part of Owner to maintain, repair, or renew the Subject Trackage, have or make any claim or demand against Owner or its directors, officers, agents or employees for any injury to or death of any person or persons whomsoever, or for any damage to or loss or destruction of any property whatsoever, or for any damages of any nature suffered by User resulting from any such failure or neglect.

(b) Owner shall also perform, at the expense of User, such additional maintenance as User may request.

SECTION 8. CONSTRUCTION AND MAINTENANCE OF CONNECTIONS

(a) Existing connections or facilities which are jointly used by the parties hereto under existing agreements or practices shall continue to be maintained, repaired, and renewed by and at the expense of the party or parties responsible for such maintenance, repair, and renewal under such agreements or practices.

(b) Any additional connections to the Subject Trackage which may be required shall be constructed, maintained, repaired, and renewed as follows:

- (i) User shall furnish all labor and material and shall construct, maintain, repair, and renew at its sole cost, liability and expense such portions of the tracks located on the right-of-way of User which connect the respective lines of the parties hereto; and
- (ii) Owner shall furnish all labor and material and shall construct, maintain, repair, and renew at the sole cost, liability and expense of User such portions of the tracks located on the right-of-way of Owner which connect the respective lines of the parties hereto.

SECTION 9. ADDITIONS, RETIREMENTS AND ALTERATIONS

(a) Owner, from time to time and at its sole cost and expense, may make such changes in, additions and betterments to, and retirements from the Subject Trackage as shall, in its judgment, be necessary or desirable for the economical or safe operation thereof or as shall be required by any law, rule, regulation, or ordinance promulgated by any governmental body having jurisdiction. Such additions and betterments shall become a part of the Subject Trackage and such retirements shall be excluded from the Subject Trackage.

(b) If User requests Owner to make changes in or additions and betterments to the Subject Trackage, including without limitation changes in communication or signal facilities, for purposes beyond that required for Owner's operation, Owner shall have the option:

- (i) to make such changes in or additions and betterments to the Subject Trackage and User shall pay to Owner the cost thereof, including the annual expense of maintaining, repairing, and renewing such additional or altered facilities; or,
- (ii) to deny such request.

SECTION 10. MANAGEMENT AND OPERATIONS

(a) User shall comply with the provisions of the Federal Locomotive Inspection Act and the Federal Safety Appliance Acts, as amended, and all other federal and state laws, regulations, and rules respecting the operation, condition, inspection, and safety of its trains, locomotives, cars, and equipment while such trains, locomotives, cars, and equipment are being operated over the Subject Trackage. User shall indemnify, protect, defend, and save harmless

Owner and its directors, officers, agents, and employees from and against all fines, penalties, and liabilities imposed upon Owner or its directors, officers, agents, or employees under such laws, rules, and regulations by any public authority or court having jurisdiction in the premises, when attributable to the failure of User to comply with its obligations in this regard.

(b) User, in its use of the Subject Trackage, will comply in all respects with the operating rules and regulations of Owner, and the movement of User's trains, locomotives, cars, and equipment over the Subject Trackage shall at all times be subject to the orders of the transportation officers of Owner. User's trains shall not include locomotives, cars or equipment which exceed the width, height, weight or other restrictions or capacities of the Subject Trackage as published in Railway Line Clearances, and no train shall contain locomotives, cars or equipment which require speed restrictions or other movement restrictions below the authorized freight speeds as provided by Owner's operating rules and regulations without the prior consent of Owner. User shall indemnify, protect, defend, and save harmless Owner and its directors, officers, agents and employees from and against all liabilities when attributable to the failure of User to comply with the provisions of this subsection.

(c) All employees of User engaged in or connected with the operations of User on or along the Subject Trackage shall be required to pass periodic examinations on the rules of Owner related to the Subject Trackage, provided, with respect to such examinations that, upon request of User, Owner shall qualify one or more of User's supervisory officers on Owner's rules and such supervisory officer or officers so qualified shall examine all employees of User engaged in or connected with User's operations on or along the Subject Trackage. Pending qualification of train and engine crews of User, Owner shall furnish a pilot or pilots, at the expense of User, as deemed necessary by Owner, to assist in operating trains of User over the Subject Trackage. User shall pay to Owner, upon receipt of bills therefore, any cost incurred by Owner in connection with the qualification of such employees of User, as well as the cost of pilots furnished by Owner, until such time as such employees are deemed by the appropriated examining officer of Owner to be properly qualified for operation as herein contemplated.

(d) Owner may conduct an investigation at its option if a User's employee working on Owner's property is alleged to have violated Owner's rules, regulations, orders, practices or instructions, or if an incident occurs which requires an investigation under applicable agreement rules. To exercise its option, Owner will schedule the investigation and notify User's Local Transportation Officer in the territory thereof, who will, in turn, arrange to issue proper notice to the User's employee(s) of the investigation. Owner's scheduling of the investigation must comply with the time limits provided in the applicable agreement on User's railroad. Owner will provide its regulations, supplements, and safety rules to User at no cost.

(e) If Owner conducts an investigation, Owner shall have the right to exclude from the Subject Trackage any employee of User, except officers, determined by Owner as the result of Owner's investigation or hearing described below, to be in violation of Owner's rules, regulations, orders, practices or instructions.

(f) In a major offense such as violation of Rule G, dishonesty, insubordination, or a serious violation of operating rules, wherein Owner desires to bar User's employee from service on Owner's territory pending an investigation by Owner, immediate verbal notification will be given to the appropriate Transportation Officer of User so that proper written notice can be issued to the employee.

(g) If Owner conducts an investigation, its officer will conduct the investigation, but an officer of User may be present to assure compliance with the User's labor agreement and practices with respect to investigation procedures. After the investigation is concluded, Owner will promptly furnish User with two copies of the transcript and a recommendation as to the discipline to be assessed. User's Transportation Officer will arrange to assess discipline, subject to receipt of Owner's recommended discipline, within the applicable time limits. If Owner recommends dismissal, User reserves the right to change the recommendation to the extent of barring the individual from operating over Owner's territory.

(h) It is understood that Owner shall reimburse User for all payments that User might be required to make as a result of a successful challenge being made by the employee or his representative as to the discipline recommended by Owner and assessed by User. User agrees to notify Owner before committing itself to making payment of any claim. In the event a claim is progressed to an Adjustment Board, Owner will be given an opportunity to review User's submission. Any payments made to employees, as a result of an investigation being "overturned", shall include not only actual wages, but in addition, shall include expenses which User may be required to pay covering vacation allowances, Railroad Retirement taxes, unemployment insurance taxes and any other payroll tax or fringe benefits.

(i) The trains, locomotives, cars, and equipment of User, Owner, and any other present or future user of the Subject Trackage or any portion thereof shall be operated without prejudice or partiality and in such manner as will afford the most economical and efficient manner of movement of all traffic.

(j) If by reason of any mechanical failure or for any other cause not resulting from an accident or derailment, a train or locomotive of User becomes stalled or unable to proceed under its own power, or fails to maintain the speed required by Owner on the Subject

Trackage, or if in emergencies crippled or otherwise defective cars are set out of User's trains on the Subject Trackage, Owner shall have the option to furnish motive power or such other assistance as may be necessary to haul, help, or push such trains, locomotives, or cars, or to properly move the disabled equipment off the Subject Trackage, and User shall reimburse Owner for the cost of rendering any such assistance.

(k) If it becomes necessary to make repairs to or adjust or transfer the lading of such crippled or defective cars in order to move them off the Subject Trackage, such work shall be done by Owner and User shall reimburse Owner for the cost thereof.

(l) In the event Owner and User agree that Owner should provide additional employees for the sole benefit of User, the parties hereto shall enter into a separate agreement under which User shall bear all cost and expense for any such additional employees, including without limitation all cost and expense associated with labor protective payments which are made by Owner and which would not have been incurred had the additional employees not been provided.

SECTION 11. MILEAGE AND CAR HIRE

All mileage and car hire charges accruing on cars in User's trains on the Subject Trackage shall be assumed by User and reported and paid by it directly to the owner of such cars.

SECTION 12. CLEARING OF WRECKS

Whenever User's use of the Subject Trackage requires rerailling, wrecking service or wrecking train service, Owner shall perform such service, including the repair and restoration of roadbed, track, and structures. The cost and expense thereof, including without limitation loss of, damage to, and destruction of any property whatsoever and injury to or death of any person or persons whomsoever resulting therefrom, shall be apportioned in accordance with the provisions of Section 13 hereof. All locomotives, cars, and equipment and salvage from the same so picked up and removed which are owned by or under the management and control of or used by User at the time of such wreck shall be promptly delivered to User.

SECTION 13. LIABILITY

The responsibility of the parties hereto as between themselves for loss of, damage to, or destruction of any property whatsoever or injury to or death of any person or persons whomsoever, resulting from, arising out of, incidental to, or occurring in connection with the Trackage Rights granted in this Agreement, shall be determined as follows:

(a) Whenever any loss of, damage to, or destruction of any property whatsoever, or injury to or death of any person or persons whomsoever, or any damage to or destruction of the environment whatsoever, including without limitation land, air, water, wildlife, and vegetation, occurs with the trains, locomotives, cars, or equipment of, or in the account of, User being involved, without the trains, locomotives, cars, or equipment of, or in the account of, Owner being involved, User shall assume all liability therefor and bear all cost and expense in connection therewith, including without limitation all cost and expense referred to in Section 12 hereof, and shall forever protect, defend, indemnify, and save harmless Owner and its directors, officers, agents, and employees from and against any such liability, cost, and expense, regardless of whether caused in whole or in part by the fault, failure, negligence, misconduct, nonfeasance or misfeasance of Owner or its directors, officers, agents or employees.

(b) Whenever any loss of, damage to, or destruction of any property whatsoever, or injury to or death of any person or persons whomsoever, or any damage to or destruction of the environment whatsoever, including without limitation land, air, water, wildlife, and vegetation, occurs with the trains, locomotives, cars, or equipment of, or in the account of, Owner being involved, without the trains, locomotives, cars, or equipment of, or in the account of, User being involved, Owner shall assume all liability therefor, and bear all cost and expense in connection therewith, including without limitation all cost and expense referred to in Section 12 hereof, and shall forever protect, defend, indemnify, and save harmless User and its directors, officers, agents, and employees from and against any such liability, cost, and expense, regardless of whether caused in whole or in part by the fault, failure, negligence, misconduct, nonfeasance or misfeasance of User or its directors, officers, agents, or employees.

(c) Whenever any loss of, damage to, or destruction of any property whatsoever, or injury to or death of any person or persons whomsoever, or any damage to or destruction of the environment whatsoever, including without limitation land, air, water, wildlife, and vegetation, occurs with the trains, locomotives, cars, or equipment of, or in the account of, both Owner and User being involved, Owner and User shall separately assume and bear all liability, cost, and expense for loss of and damage to said trains, locomotives, cars (including without limitation lading), and equipment operated by each of them and for injury to and death of each of their directors, officers, agents, and employees, and persons in each of their care and custody. All liability, cost, and expense for injury to and death of any other person or persons whomsoever, for loss of, damage to, or destruction of all other property (including without limitation the Subject Trackage) and for any damage to or destruction of the environment whatsoever, including without limitation land, air, water, wildlife, and vegetation, so occurring shall be borne equally by Owner and User, including without limitation all cost and expense referred to in Section 12 hereof. Whenever any liability, cost, or expense is assumed by or

apportioned to a party hereto under the foregoing provisions, that party shall forever protect, defend, indemnify, and save harmless the other party to this Agreement and its directors, officers, agents, and employees from and against that liability, cost, and expense assumed by that party or apportioned to it, regardless of whether caused in whole or in part by the fault, failure, negligence, misconduct, nonfeasance or misfeasance of the indemnitee or its directors, officers, agents or employees.

(d) Notwithstanding the foregoing provisions, whenever any loss of, damage to, or destruction of any property whatsoever, or injury to or death of any person or persons whomsoever, or any damage to or destruction of the environment whatsoever, including without limitation land, air, water, wildlife, and vegetation, occurs with the trains, locomotives, cars, or equipment of, or in the account of, both parties to this Agreement being so involved, and such loss, damage, destruction, injury, or death is attributable to the sole negligence of the employee(s) on the train(s), locomotive(s), car(s), or caboose(s) of, or in the account of, only one of the parties to this Agreement where such sole negligence is the active or proximate cause of such loss, damage, destruction, injury, or death, the party hereto whose employee(s) was (were) solely negligent shall assume and bear all liability, cost, and expense in connection with the loss, damage, destruction, injury, and death so occurring, including without limitation all cost and expense referred to in Section 12 hereof, and said party shall forever protect, defend, indemnify, and save harmless the other party to this Agreement and its directors, officers, agents, and employees from and against any such liability, cost, and expense.

(e) In every case of death or injury suffered by an employee of either User or Owner, when compensation to such employee or employee's dependents is required to be paid under any workmen's compensation, occupational disease, employer's liability, or other law, and either of said parties under the provisions of this Agreement is required to pay said compensation, if such compensation is required to be paid in installments over a period of time, such party shall not be released from paying any such future installments by reason of the expiration or other termination of this Agreement prior to any of the respective dates upon which any such future installments are to be paid.

(f) For purposes of this Section 13, pilots furnished by Owner to User pursuant to Section 10(c) of this Agreement shall be considered as the employees of User while such employees are on duty as pilots.

(g) Notwithstanding the provisions of Section 18(f) of this Agreement, for the purposes of this Section 13 the word "equipment" shall mean and be confined to (i) cabooses, (ii) vehicles and machinery which are capable of being operated on railroad tracks that, at the time of

an occurrence, are being operated on the Subject Trackage, and (iii) vehicles and machinery that, at the time of an occurrence, are on the Subject Trackage or its right-of-way for the purpose of the maintenance or repair thereof or the clearing of wrecks thereon.

SECTION 14. INVESTIGATION

(a) Except as provided in Subsection (b) hereof, all claims, injuries, deaths, property damages, and losses arising out of or connected with this Agreement shall be investigated, adjusted, and defended by the party bearing the liability, cost, and expense therefor under the provisions of this Agreement.

(b) Each party will investigate, adjust, and defend all freight loss and damage claims filed with it in accordance with 49 U.S.C. Section 11706 and 49 C.F.R. Section 1005 (or any revised or substitute regulations adopted to modify, supplement or supersede the regulations herein provided), or in accordance with any applicable transportation contract entered into pursuant to 49 U.S.C. Section 10709.

(c) In the event a claim or suit is asserted against Owner or User which is the other's duty hereunder to investigate, adjust, or defend, then, unless otherwise agreed, such other party shall, upon request, take over the investigation, adjustment, and defense of such claim or suit.

(d) All costs and expenses in connection with the investigation, adjustment, and defense of any claim or suit under this Agreement shall be included as costs and expenses in applying the liability provisions set forth in this Agreement, except that salaries or wages of full-time employees, including claim agents, attorneys, and other employees of either party engaged directly or indirectly in such work shall be borne by such party.

(e) Excluding freight loss and damage claims filed in accordance with 49 U.S.C. Section 11706 or 49 C.F.R. Section 1005 or similar regulation, neither party shall settle or compromise any claim, demand, suit, or cause of action for which the other party has any liability under this Agreement without the concurrence of such other party if the consideration for such settlement or compromise exceeds Twenty-Five Thousand Dollars (\$25,000).

(f) Nothing in this section shall modify or supersede the provisions of Section 13 hereof.

SECTION 15. DEFAULT AND TERMINATION

In the event of any substantial failure on the part of User to perform its obligations under this Agreement and its continuance in such default for a period of sixty (60) days after written notice thereof by certified mail from Owner, Owner shall have the right at its option, after first giving thirty (30) days' written notice thereof by certified mail, and notwithstanding any waiver by Owner of any prior breach thereof, to terminate the Trackage Rights and User's use of the Subject Trackage. The exercise of such right by Owner shall not impair its rights under this Agreement or any cause or causes of action it may have against User for the recovery of damages.

SECTION 16. ARBITRATION

Any irreconcilable dispute arising between the parties with respect to this Agreement shall be settled through final and binding arbitration. The parties shall jointly submit the matter to final and binding arbitration under the Commercial Arbitration Rules of the American Arbitration Association. The decision of the arbitrator(s) shall be final and conclusive upon the parties hereto. Each party to the arbitration shall pay the compensation, costs, fees and expenses of its own witnesses, experts and counsel. The compensation, costs and expense of the arbitrator(s), if any, shall be borne equally by the parties hereto.

SECTION 17. ABANDONMENT OF SUBJECT TRackage

Notwithstanding the provisions of Section 21 of this Agreement, Owner may abandon the Subject Trackage during the term of this Agreement, or any renewals hereof, upon giving User not less than one hundred twenty (120) days' written notice of Owner's intent to abandon. In the event regulatory authority is required to effect such abandonment, User will not interfere with Owner's actions to seek and to exercise such authority. In the event regulatory authority is required for User to discontinue its own operations over the Subject Trackage, User will seek and diligently pursue such regulatory authority at the same time that Owner seeks regulatory authority to abandon the Subject Trackage, or as soon thereafter as User may do so in accordance with applicable statutes and regulations, unless User intends to acquire the Subject Trackage from Owner pursuant to 49 U.S.C. Section 10904 or other similar provision. User hereby expressly reserves the right pursuant to 49 U.S.C. Section 10904 or any similar provision which may be in effect to subsidize operations on or to acquire the Subject Trackage. Unless User or another party acquires the Subject Trackage for continued rail use or subsidizes Owner's operations thereon, User shall exercise its authority to discontinue its operations pursuant to this Agreement upon the date established by Owner for abandonment of the Subject Trackage by its aforesaid notice to User, or upon the earliest authorized date of exercise of the regulatory authority to discontinue operations, whichever is later. If regulatory authority for discontinuance of User's operations is not required, User shall discontinue its operations hereunder on the date

that Owner is authorized to abandon the Subject Trackage. Upon discontinuance of User's operations, this Agreement shall terminate and be of no further force and effect, except that termination of this Agreement shall not relieve or release either party hereto from any obligations assumed or from any liability which may have arisen or been incurred prior to said termination. As used herein, Subject Trackage means the entire Subject Trackage or any portion or portions thereof.

SECTION 18. GENERAL PROVISIONS

(a) This Agreement and each and every provision hereof are for the exclusive benefit of the parties hereto and not for the benefit of any third party. Nothing herein contained shall be taken as creating or increasing any right in any third party to recover by way of damages or otherwise against either of the parties hereto.

(b) All Section headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

(c) This Agreement and the attachments annexed hereto and integrated herewith contain the entire agreement of the parties hereto and supersede any and all oral understandings between the parties.

(d) No term or provision of this Agreement may be changed, waived, discharged, or terminated except by an instrument in writing signed by both parties to this Agreement.

(e) As used in this Agreement, whenever reference is made to the trains, locomotives, cars, or equipment of, or in the account of, one of the parties hereto such expression means the trains, locomotives, cars, or equipment in the possession of or operated by one of the parties and includes such trains, locomotives, cars, or equipment which are owned by, leased to, or in the account of such party. Whenever such locomotives, cars, or equipment are owned or leased by one party to this Agreement and are in the possession or account of the other party to this Agreement, such locomotives, cars, and equipment shall be considered those of the other party under this Agreement.

(f) All words, terms, and phrases used in this Agreement shall be construed in accordance with the generally applicable definition or meaning of such words, terms, and phrases in the railroad industry.

SECTION 19. SUCCESSORS AND ASSIGNS

This Agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto; provided, however, that User shall not transfer or assign this

Agreement, or any of its rights, interests, or obligations hereunder, by merger or otherwise, to any person, firm, or corporation without obtaining the prior written consent of Owner.

SECTION 20. NOTICE

Any notice required or permitted to be given by one party to the other under this Agreement shall be deemed given on the date sent by certified mail, or by such other means as the parties may mutually agree, and shall be addressed as follows:

(a) If to Owner:

c/o General Manager Contracts
Consolidated Rail Corporation
2001 Market Street 14C
P. O. Box 41414
Philadelphia, PA 19101-1414

(b) If to User:

c/o President
The Indiana Rail Road Company
P. O. Box 2464
Indianapolis, IN 46206-2464

(c) Either party may provide changes in the above addresses to the other party by personal service or certified mail.

SECTION 21. COMMENCEMENT, TERM AND TERMINATION

(a) This Agreement shall take effect on the date of termination of the 1883 Agreement (which date is referred to herein as the "Effective Date"). The Effective Date shall be evidenced by an exchange of correspondence between the appropriate operating officers of the parties hereto.

(b) This Agreement shall continue in full force and effect for a period of thirty (30) years from the Effective Date, as hereinabove defined; provided, however, that User shall have the right to terminate this Agreement upon giving sixty (60) months' advance written notice to Owner. Termination of this Agreement shall not relieve or release either party hereto from any obligations assumed or from any liability which may have arisen or been incurred by either party under the terms of this Agreement prior to the termination hereof.

(c) User shall have the right to renew this Agreement for one (1) additional thirty (30) year term, subject to User's above-stated right to terminate, by giving written notice thereof to Owner not more than twelve (12) months and not less than six (6) months prior to expiration of the initial term of this Agreement.

(d) Upon the giving by User of the notice referred to in paragraph (c) above, the parties shall, in good faith, renegotiate the terms and conditions of this Agreement, and shall adjust such terms and conditions as may be reasonable and equitable in light of any changed circumstances during the initial term of this Agreement. In the event the parties fail to reach agreement upon such renegotiation, then such failure shall not constitute a breach of this Agreement and the terms and conditions of this Agreement shall remain in full force and effect for the remainder of the initial term and for the renewed term of this Agreement.

(e) Upon termination of this Agreement on notice of User as provided in Section 21(b) above, by expiration of its term as provided herein, or for any other reason, User shall promptly initiate and thereafter diligently prosecute any action to obtain approval from the Surface Transportation Board or other regulatory body having jurisdiction authorizing abandonment or discontinuance of the Trackage Rights herein granted.

SECTION 22. OPERATION BY AGENT

User may engage CSXT as its contractor or agent under the terms of this Agreement. User shall remain primarily liable for performance of all the terms and provisions imposed upon User in this Agreement during the period CSXT is engaged as User's contractor or agent as aforesaid, and the actions of CSXT shall, for the purpose of this Agreement, be considered as the actions of User, unless Owner and User otherwise agree in writing. CSXT shall be considered as User under this Agreement and shall comply with all the terms and provisions of this Agreement.

SECTION 23. MISCELLANEOUS SPECIAL PROVISION

(a) INRD agrees to file with the Surface Transportation Board ("STB"), within thirty (30) days from the effective date of this Agreement, such notice or application as may be necessary to discontinue the following INRD trackage rights pursuant to the 1983 Agreement:

- (i) INRD trackage rights over approximately 1.1 miles of the former Indianapolis Union Railway Company ("IU"), now a portion of Conrail's St. Louis Line, in downtown Indianapolis, IN, extending through "IU" Interlocking and through the former Indianapolis Union Station (the "Union Tracks"); and

(ii) INRD's trackage rights over approximately 5.3 miles of the former Belt Railroad and Stock Yard Company, now a portion of Conrail's Indianapolis Belt Running Track, between North Indianapolis, IN (Milepost 0.0±) and the connection between Conrail and INRD at Raymond Street, Indianapolis, IN (Milepost 5.3±), (the "Belt Tracks").

(b) Further, INRD agrees that it will not seek to exercise its trackage rights to operate over the Belt Tracks, subsequent to the termination of the 1883 Agreement.

SECTION 24. INSURANCE PROVISIONS

(a) During the term, and any continued term of this Agreement, INRD, at its own expense, shall procure and maintain in effect a policy of public liability insurance, with limits of not less than \$3 million single limit, bodily injury and/or property damage, for damages arising out of bodily injuries to or death of all persons in any one occurrence and for damage to, or destruction of property, including the loss of use thereof, in any one occurrence, subject to a self-insured retention limit not to exceed Two Hundred and Fifty Thousand Dollars (\$250,000), including contractual liability insurance, which names Conrail as an additional insured and provides for a minimum of thirty (30) days' advance written notice to Conrail prior to any changes or cancellation. Failure to procure and maintain such insurance in force shall constitute a Breach of Contract hereunder.

(b) This insurance coverage shall be effected under standard form policies issued by insurers of financial responsibility, which are rated "A" or better by either Best's Insurance Reports, Standard & Poor's Insurance Rating Service or Moody's Investors Service. Conrail reserves the right to reject as inadequate, coverage provided by an insurance company rated "B+" or better by the aforementioned rating services.

(c) If the insurance provided under this section takes the form of a "Claims Made Policy", INRD shall purchase whatever supplemental coverage may be necessary to provide continuous coverage of its potential liability under this Agreement, with annual occurrence and annual aggregate limits no less than those required hereunder, for a period of time at least five (5) years following the termination of this Agreement. INRD shall immediately give Conrail written notice of any claim, or notice of incident, or notice of potential claim, that is required to be reported to INRD's liability insurance company.

(d) INRD shall provide annually, satisfactory evidence of coverage, written notice of any claim and any other correspondence dealing with insurance and insurance matters should be directed to:

Assistant Vice President
Risk Management Planning and Administration
Consolidated Rail Corporation
2001 Market Street 6-B
P. O. Box 41406
Philadelphia, PA 19101-1406

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first above written.

WITNESS:

CONSOLIDATED RAIL CORPORATION

John J. Cornue

BY: Paul Casey
General Manager Contracts

WITNESS:

THE INDIANA RAIL ROAD COMPANY

L. Ruffalo

BY: Thomas B. Hoback

INDIANAPOLIS, IND

1996

NO SCALE

PORTION OF 'BFT'
FROM RALPHS ST 7
NW CORNER OVER
WHICH INRD IS
GRANTED TRAILAGE
RIGHTS

311 780

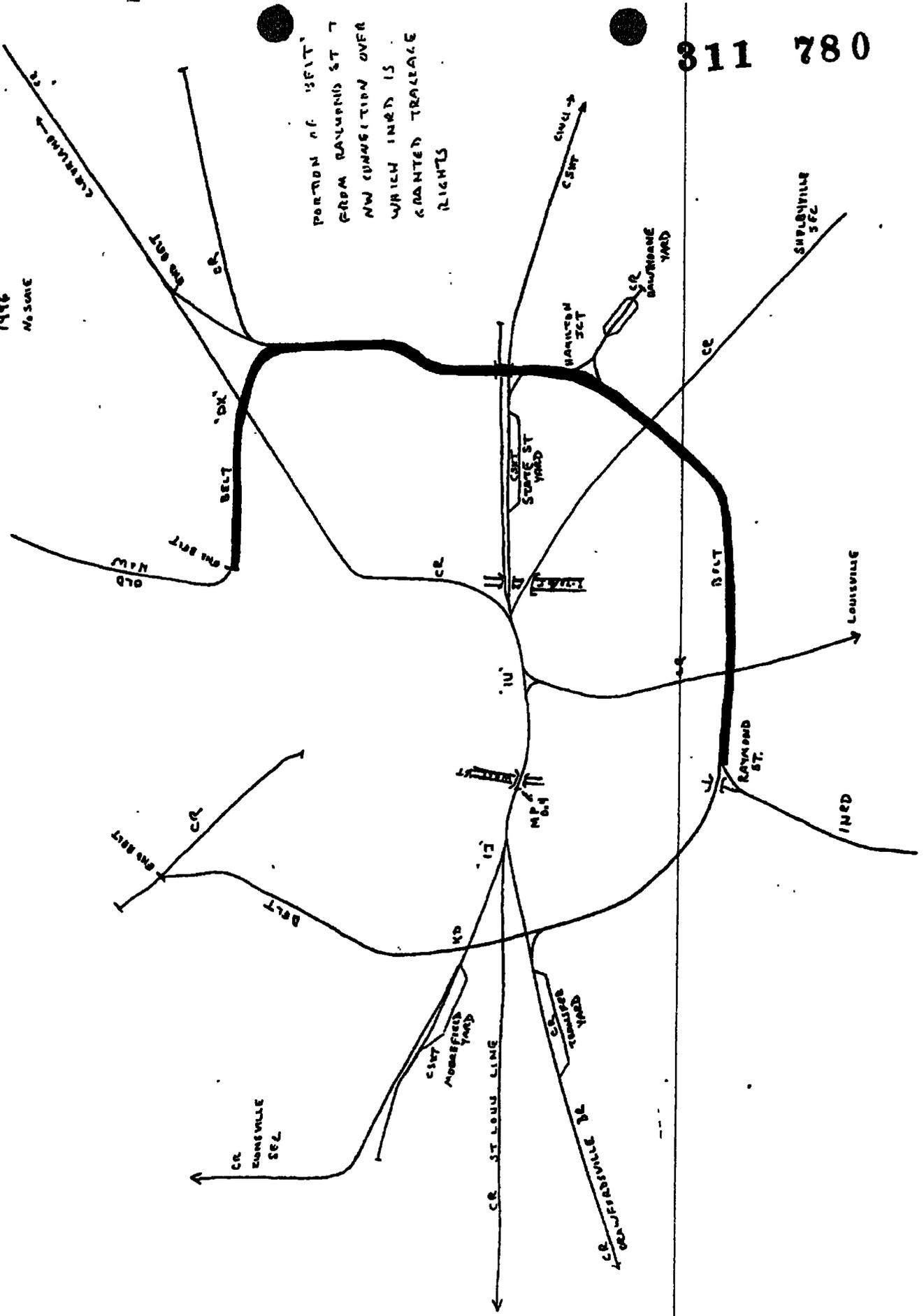


EXHIBIT No. 3

CAPTION SUMMARY

SURFACE TRANSPORTATION BOARD

Notice of Exemption

Finance Docket No. 35283

The Indiana Rail Road Company--Trackage Rights--CSX Transportation, Inc.

CSX Transportation, Inc. has agreed to grant limited overhead trackage rights to The Indiana Rail Road Company ("INRD") between the junction of INRD's line in Indianapolis, IN and the Indianapolis Belt Railway on the one hand and CSXT's Avon Yard west of Indianapolis, IN on the other, over lines of the Indianapolis Belt Railway, CSXT's Indianapolis Subdivision, CSXT's Indianapolis Terminal Subdivision, CSXT's Louisville Secondary Subdivision, CSXT's Crawfordsville Branch and CSXT's Shelbyville Secondary Subdivision. INRD can use the trackage rights to deliver and retrieve carload haulage traffic with Louisville & Indiana Railroad Company ("LIRC") at CSXT's Avon yard, to deliver and retrieve unit train haulage traffic directly with LIRC, to access its customers on INRD leased tracks at State Street Yard, and to access CSXT's Hawthorne yard. The trackage rights will become effective on September 17, 2009.

This notice is filed under 49 CFR 1180.2(d)(7). Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction.

Dated:

By the Board.

Anne K. Quinlan

Acting Secretary.